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Attorneys for Plaintiff State of Montana

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

STATE OF MONTANA,

Plaintiff,

V.

PURDUE PHARMA L.P., PURDUE
PHARMA, INC., THE PURDUE
FREDERICK COMPANY, AND
JANE DOES 1-10,

Defendants.

Case No. 6:18-cv-00033-SEH

**STATE OF MONTANA'S
MEMORANDUM OF LAW
IN SUPPORT OF OPPOSED
MOTION TO EXPEDITE
BRIEFING SCHEDULE**

Plaintiff, the State of Montana (“the State”), respectfully requests an expedited briefing schedule on its Motion to Remand, filed on March 2, 2018, for the reasons that follow. The State sought Purdue’s consent for an expedited briefing schedule, but Purdue did not consent.

Attorney General Timothy C. Fox filed the underlying complaint against Purdue Pharma L.P. and its corporate family (collectively “Purdue”) to address Purdue’s continuing role in creating the opioid crisis in Montana. On February 28, 2018, 90 days after the State’s original complaint was filed and one day before its response to the State’s Amended Complaint was due,¹ Purdue filed a Notice of Removal, alleging federal question jurisdiction, and stating its intent to identify this case for transfer to the federal multidistrict litigation (“MDL”) pending before Judge Polster in the Northern District of Ohio. [Doc. 1 ¶ 8]. The State filed its Motion to Remand and Memorandum in Support of its Motion two days later.

Without an expedited ruling by this Court, this case will be transferred to the federal MDL, where all litigation in the MDL has been stayed, including the consideration of remand motions, to focus on settlement. *See* Order Involving Remands (Ex. A). However, in contrast to Purdue’s Notice

¹ The State had consented to Purdue’s request for an extension on the deadline to answer or file a dispositive motion.

of Removal, the federal MDL court “recognizes it has no jurisdiction over (1) the AGs or their representatives, [or] (2) the State cases they have filed.” *In re National Prescription Opiate Litigation*, 1:17-md-02804, ECF No. 146, Order Regarding State Court Coordination (N.D. Ohio Feb. 27, 2018) (Ex. B). However, because of its procedural hold, the MDL Court may not reach the substantive merits of the State’s motion for considerable time.

It is well settled that district courts have broad discretion in managing the pretrial phase of litigation, including schedules. *E.g.*, *Lair v. Murry*, No. CV 12-12-H-CCL, 2012 WL 2524974, at *3 (D. Mont. June 29, 2012). Given the circumstances, the State proposes that Purdue should have five (5) days from the date of filing of the State’s Motion for Remand, until March 7, 2018, for the filing of Purdue’s response memorandum, and the State should have two (2) days thereafter, until March 9, 2018, to file the State’s reply memorandum.

For the foregoing reasons, the State respectfully requests that this Court enter an Order Granting Plaintiff State’s Motion for Expedited Briefing Schedule for Plaintiff’s Motion for Remand.

Respectfully submitted, this 5th of March, 2018.

/s/ Timothy C. Fox
Montana Attorney General
Attorney for Plaintiff

CERTIFICATE OF COMPLIANCE

Pursuant to D. Mont. LR CR 7.1(d)(2)(E), the attached State of Montana's Memorandum of Law in Support of Opposed Motion to Expedite Briefing Schedule is proportionally spaced, has a typeface of 14 points or more, and the body contains less than 745 words.

/s/ Timothy C. Fox
Montana Attorney General
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that, on March 5, 2018, a copy of the foregoing was served on the following persons by the following means:

1, 2 CM/ECF
 Hand Delivery
3 Mail
 Overnight Delivery Service
 Fax
 E-mail

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